

IOWA BOARD OF EDUCATIONAL EXAMINERS

IN THE MATTER OF :	)	DIA Nos. 15BEE02; 15BEE07
	)	Case Nos. 14-23; 14-22
REGAN STONE,)	
MICHAEL REEVES)	
Respondents	)	ORDER REGARDING
	)	PROPOSED DECISION
)	

The Iowa Board of Educational Examiners (Board) issued a Notice of Hearing and Statement of Charges against Respondent Regan Stone on January 28, 2015. The Board also issued a Notice of Hearing and Statement of Charges against Respondent Michael Reeves on the same date. The cases were consolidated for hearing in an order issued April 21, 2015. A contested case hearing was held on August 4 and 5, 2015, before Administrative Law Judge Margaret LaMarche. The Proposed Decision was issued on September 28, 2015, and was served on the Respondents, the Assistant Attorney General prosecuting the case (the State) and the Board.

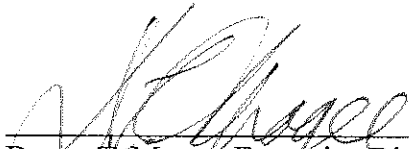
The Board reviewed the Proposed Decision and on October 9, 2015, voted to initiate review under Iowa Admin.Code 282-11.28(2) to examine whether the proposed sanction was appropriate in light of the findings. A briefing schedule was established and briefs were submitted by the Respondent and by the State. Following review of the Proposed Decision and the briefs submitted by Respondent and the State, the Board voted to accept the Proposed Decision with the following two modifications:

- The final paragraph before the heading “DECISION AND ORDER” on page 26 is amended by adding the following concluding sentences: “In light of the information in the record and the previous cases cited by the State and respondents, a term of suspension—deferred upon completion of an ethics course—is appropriate for both respondents. A reprimand is also warranted for both respondents, to provide notice of the violations and to deter ethical violations by other practitioners.”
- Both paragraphs under the heading “DECISION AND ORDER” are amended by adding the following sentence at the conclusion of each paragraph: “IT IS FURTHER ORDERED that the respondent is REPRIMANDED.”

ORDER

IT IS THEREFORE ORDERED that the Proposed Decision in the above-captioned consolidated cases will stand as the final decision of the board, with the two modifications set forth above.

Dated this 12th day of February, 2016.



Duane T. Magee, Executive Director
On behalf of the Board

Copies to:

Michael Reeves (restrict certified mail and first-class mail)
RESPONDENT

Brian L. Gruhn (electronic mail)
ATTORNEY FOR RESPONDENT REEVES

Regan Stone (restrict certified mail and first-class mail)
RESPONDENT

C. Joseph Holland (electronic mail)
ATTORNEY FOR RESPONDENT STONE

Renner K. Walker (electronic mail)
ATTORNEY FOR STATE

IOWA BOARD OF EDUCATIONAL EXAMINERS

RECEIVED
EXECUTIVE DIRECTOR
BOARD OF EDUCATIONAL EXAMINERS

SEP 29 2015

IN THE MATTER OF:)	
)	
REGAN STONE,	)	CASE NO. 14-23 (DIA NO. 15BEE002)
MICHAEL REEVES	)	CASE NO. 14-22 (DIA NO. 15BEE007)
)	
)	
	)	PROPOSED DECISION
RESPONDENTS)	

On January 28, 2015, the Iowa Board of Educational Examiners (Board) issued a Notice of Hearing and Statement of Charges charging Respondent Regan Stone with:

Count I: Executing a written professional employment contract requiring the performance of duties that he was not legally qualified to perform, in violation of 282 IAC 25.3(5)(a)(5); and

Count II: Unethical conduct by performing services beyond the authorized scope of practice for which the individual is licensed or prepared or performing services without holding a valid license, in violation of 282 IAC 25.3(6)(o).

The Board also issued a Notice of Hearing and Statement of Charges charging Respondent Michael Reeves with:

Count I: Executing a written professional employment contract with a practitioner which requires the performance of duties that the practitioner was not legally qualified to perform, in violation of 282 IAC 25.3(5)(a)(4); and

Count II: Unethical conduct by delegating tasks to unqualified personnel, in violation of 282 IAC 25.3(6)(l).

On April 21, 2015, an Order was issued consolidating these two cases for hearing. The hearing was held before the undersigned administrative law judge on August 4 and August 5, 2015. Assistant Attorney General Renner Walker represented the state. Attorney C. Joseph Holland represented Respondent Regan Stone. Attorney Brian Gruhn represented Respondent Michael Reeves. At the time of hearing, the following exhibits were admitted into the record: State Exhibits 1-24, 28-33, 36-40, 42, 45-55 and

Respondent Exhibits A-X. The record was held open until August 11, 2015 for Respondents to submit any relevant prior Board decisions. Respondents timely submitted additional exhibits Y-Z and AA-FF. The record was also held open until August 26, 2015 for the parties to submit written closing arguments and briefs.

THE RECORD

The record includes the testimony of Amber Jacque, Brett Jones, Gregg Horstmann, Shelby Bryce, Michael Reeves, and Regan Stone. The record also includes the exhibits and the parties' briefs.

ISSUES

The common issues presented by the Statements of Charges are:

- 1) Whether Respondent Regan Stone was properly licensed to perform the duties required by his employment contract to serve as Dean of Students?
- 2) Whether Regan Stone was properly licensed to perform the duties that were delegated to him by Respondent Michael Reeves?
- 3) Whether Regan Stone performed duties beyond his permissible scope of practice as a licensed teacher?

FINDINGS OF FACT

Background Information

At all times relevant to this decision, Respondent Michael Reeves was licensed (Folder #175509) in Iowa as a Professional Administrator, with the following endorsements: PK-8 Principal; PK-12 Superintendent & AEA Administrator; and Evaluator (New). Mr. Reeves also holds a permanent professional license with the following endorsements: K-12 Athletic Coach, K-6 Elementary Classroom Teacher, and K-8 Physical Education. Mr. Reeves has been employed as the Superintendent of the Lone Tree Community School District (hereinafter "Lone Tree") for fifteen years and is nearing retirement. (State Exhibit 10; Reeves testimony)

At all times relevant to this decision, Respondent Regan Stone was licensed (Folder #354186) in Iowa as a teacher, with the following endorsements: K-6 Elementary Classroom Teacher, K-8 English/Language Arts, 5-12 English/Language Arts, and K-12

Athletic Coach. Mr. Stone was initially employed by Lone Tree as a high school Language Arts teacher and Junior High Basketball Coach in 2005. During the 2013-2014 and the 2014-2015 school year, Mr. Stone was employed by Lone Tree as the Secondary (6-12) Dean of Students. On January 16, 2015, Mr. Stone obtained a Class B Provisional Administrator License, and is currently serving as Lone Tree's Secondary (6-12) Principal for the 2015-2016 school year. (State Exhibit 11; Respondent Exhibit K; Stone testimony)

Lone Tree is a small school district of approximately 500 students that operates a single PK-12 building. The PK-4th Grade classrooms are located on the lower level of the building, and the 5th-12th grades are located in the building's upper level. Historically, the school district employed a Superintendent, an Elementary Principal, a Secondary Principal, and an Athletic (Activities) Director. (Reeves, Jacque testimony; State Exhibits 15, 16)

Superintendent Reeves has always assumed sole responsibility for preparing and presenting the school district's operating budget and for evaluating most of the school district's non-certified employees and administrators. The principal(s), head maintenance person, and head cook all report directly to Superintendent Reeves. Superintendent Reeves and the principals share responsibility for employee discipline. (Reeves, Jacque testimony)

For several years prior to the 2013-2014 school year, Amber Jacque was employed as Lone Tree's PK-5 Principal, and Brett Jones was employed as Lone Tree's 6-12 Principal. Changes were made to this administrative structure in the spring of 2013. The two principal positions (elementary and secondary) were combined into one PK-12 Principal position, and a new full-time Dean of Students and a new half-time Instructional Leader were added. (Reeves, Jacque, Jones testimony)

Superintendent Reeves explained his reasons for making these changes. In 2013, Lone Tree was in the process of implementing "standards based instruction," and it was Mr. Reeves' opinion that Lone Tree needed the assistance of an Instructional Coach/Professional Development Leader. Mr. Reeves was aware that Lone Tree's former Secondary Principal, Mark Hopkins, was returning to the area to finish his PhD at the University of Iowa. Mr. Hopkins, who had a good track record and was well-respected in the community, had indicated that he was willing to accept a part-time position as Lone Tree's Instructional Coach and leader of the Professional Learning Community (PLC). At the same time, Lone Tree had been having some significant student management/discipline problems in the past few years. Mr. Reeves believed

that a respected Dean of Students would be able to restore the building to an environment that was more conducive to learning. (Reeves, Jacque, Bryce testimony; State Exhibit 15)

Brett Jones was only certified as a 6-12 Principal, and he made the decision to resign his position as Lone Tree's Secondary Principal in April 2013 after Superintendent Reeves discussed the proposed staffing changes with him. On May 9, 2013, Amber Jacque, who was certified as a PK-12 Principal, signed a contract to serve as Lone Tree's combined Elementary/Secondary (K-12) Principal for the 2013-2014 school year. On that same day, Regan Stone signed a contract to serve as Lone Tree's Dean of Students for the 2013-2014 school year. On June 26, 2013, Mark Hopkins signed a contract to be Lone Tree's half-time "Instructional Coach" for the 2013-2014 school year.¹ (Reeves, Jacque, Stone testimony; State Exhibits 17, 20; Respondent Exhibits C, F, H)

As the Elementary/Secondary Principal, Amber Jacque was paid a total of \$94,000, which included \$4,156.97 for "administrative realignment due to secondary certification and training." The school district also agreed to pay for Ms. Jacque's professional development classes and her dues to the State & National Principals' Association and others, as approved by the superintendent. Amber Jacque's employment contract did not specify the duties of the Elementary/Secondary K-12 Principal, and the record does not include a Position Description for the K-12 Principal. Ms. Jacque testified that based on her discussions with Superintendent Reeves, she understood that her primary responsibility as the Secondary Principal would be to complete teacher evaluations and handle any teacher discipline. It was her understanding that she would not be responsible for supervising the day to day operations or schedules of the secondary teachers. (State Exhibit 20; Respondent Exhibit F; Reeves, Jacque testimony)

The Dean of Students Employment Contract and Position Description

The "Dean of Students" employment contract provided that Regan Stone would be paid an annual salary of \$70,000 for the 2013-2014 school year, beginning on August 1, 2013, and an additional sum of \$5,000 for working during the months of June and July 2013. The contract also provided that the school district would pay Mr. Stone's dues for the State & National Principals' Associations, as approved by the Superintendent, and would also pay for his Professional Development and/or Certification classes at the University of Northern Iowa to become certified as a K-12 Principal. After signing this contract, Regan Stone enrolled in the educational program at the University of Northern

¹ Ms. Jacque, Mr. Stone, and Mr. Hopkins continued in these positions during the 2014-2015 school year.

Iowa (UNI) with the goal of becoming licensed as an administrator and becoming Lone Tree's 6-12 Principal in two years. During Michael Reeves tenure as superintendent, Lone Tree has paid for other teachers to obtain further education and licensure for difficult to fill positions, and he did not consider this contract provision to be unusual. (Reeves, Stone testimony; State Exhibits 17, 28; Respondent Exhibit C)

Michael Reeves developed a single page written Position Description for the Secondary (6-12) Dean of Students. There is no evidence in the record, however, to establish the date of the Position description or whether Mr. Reeves created it before or after Mr. Stone signed his contract. The contract makes no reference to the Position Description. Mr. Stone testified that based on his conversation with Superintendent Reeves, he understood that as Dean of Students he would be in charge of student issues, including discipline and detention, making sure that students were where they were supposed to be and not in the halls at all hours, and working with Guidance Counselor Shelby Bryce and the students on scheduling. Mr. Stone believed that an administrator license was not required for the Dean of Students position. (Reeves, Stone testimony; State Exhibit 18; Respondent Exhibit D)

According to the single page Position Description, the Dean of Students reports to the High School Principal and must possess the following job qualifications: 1) pursuing Master's Degree in the Supervision/Administration of the high school from a reputable university plus other credentials sufficient to command personal respect; and 2) five years of experience as a classroom teacher. The Position Description describes the "Primary Function" of the Dean of Students as follows:

1. Providing for effective day-to-day operation of the high school through effective communication.
 - a. Demonstrating effective communication skills.
 - b. Keeping students and staff informed of changes in schedule, activities and events disciplinary procedure etc.
 - c. Communicating frequently with staff members about their responsibility in relation to student achievement.
 - d. Demonstrating positive interpersonal relationships with students.
 - e. Demonstrating positive interpersonal relationships with staff.
 - f. Demonstrating positive interpersonal relationships with parents.
 - g. Demonstrating positive interpersonal relationships with administrators.
 - h. Being prompt in responding to calls, messages, requests, etc.

- i. To ensure a safe environment and an environment that is conducive to learning is maintained at Lone Tree Community High School.

The Position Description describes the Dean of Students' "Major Responsibilities" as follows: 1. Providing leadership for positive school culture; 2. Establishing and maintaining effective discipline in the school; 3. Providing for the effective day-to-day operation of the Secondary school; 4. Ensuring that school facilities and grounds are safe, attractive, energy efficient, and maintained properly; 5. Meet with students for scheduling; 6. Facilitate parent meetings; and 7. Supervise building at Activities, Lunch, Before/After School. (State Exhibit 18; Respondent Exhibit D)

Lone Tree's Position Description for the Secondary (6-12) School Principal was far more detailed (four pages in length). (State Exhibit 19; Respondent Exhibit E) In certain respects, the two Position Descriptions overlap and were nearly identical. For example:

- Dean of Students Major Responsibility #2 (Establishing and maintaining effective discipline in the school) is also Key Duty #4 for the Secondary Principal;
- Dean of Students Primary Function #1 (Providing for effective day-to-day operation of the high school through effective communication) is identical to Key Duty #5 for the Secondary Principal;
- Major Responsibilities of both positions: #3 for the Dean of Students (Providing for the effective day-to-day operation of the Secondary school) is virtually identical to #5 for the Secondary Principal (Providing for the day-to-day operation of the elementary² school);
- Major Responsibilities for both positions: #4 for the Dean of Students and #6 for the Secondary Principal are identical (Ensuring that school facilities and grounds are safe, attractive, energy efficient, and maintained properly).
- Primary Functions of both positions: Subsections (d)-(g) for the Dean of Students (demonstrating positive interpersonal relationships with students, staff, parents, administrators) is nearly identical to #5 for the Secondary Principal (To develop positive interpersonal relationships with staff members, students, and the community);

The Position Description for the Secondary Principal also includes many detailed responsibilities and duties that are not included in the Dean of Students Position Description. These include, but are not limited to: providing leadership for educational

² As noted at hearing, this is an obvious typographical error and clearly should be "secondary," not elementary.

change, directing the supervision of instruction, providing leadership in developing and/or communicating the curricula to the elementary (sic) school staff and organize personnel to implement the instruction of the curricula, and providing effective educational leadership in the area of instruction and learning. (State Exhibit 19; Respondent Exhibit E)

Duties Performed by Regan Stone as Dean of Students

As Dean of Students, Regan Stone occupied the same office that had always been occupied by the secondary principal. His office was on the second floor and in close proximity to the offices of Superintendent Reeves, Instructional Leader Mark Hopkins, and Guidance Counselor Shelby Bryce. Principal Amber Jacque's office was just down the stairs in the elementary wing of the building. Ms. Jacque estimated that she was upstairs in the secondary wing of the building a couple of times a day. Ms. Jacque conducted staff meetings for the elementary teachers but did not conduct any staff meetings for the secondary teachers. She understood that she would be available to collaborate or help Mr. Stone as needed. (Reeves, Stone, Bryce, Jacque testimony)

At hearing, Superintendent Reeves was asked why it was necessary for Regan Stone to be paid during June and July of 2013, a time when students were not in school. He responded that Mr. Stone's summer duties included working with the Activities Director to supervise students and fans at summer activities and working on the students' schedules. Superintendent Reeves described scheduling as a painstaking task that requires a lot of time in the summer. Mr. Reeves acknowledged that Mark Hopkins had handled the scheduling when he was the secondary principal but testified that Principal Jones had been delegating much of the responsibility for the schedule to Guidance Counselor Shelby Bryce. (State Exhibit 17; Respondent Exhibit 6; Reeves, Stone, Bryce testimony)

Shelby Bryce testified that Regan Stone was in in charge of the "master schedule" while he was Dean of Students. Regan Stone testified that Ms. Bryce gave all students a "template" to take home and fill out and then he and Ms. Bryce met with all students individually to answer questions and finalize the students' schedules. Ms. Bryce testified that she worked closely with Mr. Stone and that he was the person she would go to if she had an issue concerning a middle or high school student or their parents. Ms. Bryce would notify Regan Stone if any secondary students would be absent from school to attend field trips or college visits. They also worked together to implement the school's anti-bullying program. (Bryce, Stone testimony)

Regan Stone testified that, in his opinion, many of the functions and responsibilities outlined in the Dean of Students Position Descriptions (i.e. those relating to communicating, demonstrating positive interpersonal relationships, and providing for the day-to-day effective operation of the secondary school) also applied to other school district employees who were not administrators, including the coaches, teachers, and the school secretary. Mr. Stone further testified that the teacher leadership team also communicated with staff members about their responsibilities in relation to student achievement. According to Mr. Stone, he considered his responsibility for day-to-day management of the school to be focused on student management and maintaining high visibility throughout the school. He supervised and monitored students in the halls, at lunch, and at after school activities. He testified that the building had become "chaotic," with students loitering in halls and being off task in the study halls and classrooms. Mr. Stone described his responsibility for "facilitating parent meetings" as involving parents when students had repeated or serious behavior issues. (Stone testimony)

While serving as the Elementary/Secondary Principal, Ms. Jacque was responsible for completing and signing off on all teacher evaluations to determine if teaching standards had been met.³ Lone Tree teachers were on a three year cycle for evaluations. If a teacher was up for evaluation at the end of the year, Ms. Jacque conducted one "formal observation" of the teacher in their classroom each semester in order to get a snapshot of the teacher's classroom instruction. During the 2013-2014 school year, Ms. Jacque evaluated approximately 13 elementary and secondary teachers. Ms. Jacque contacted the teachers each semester to schedule and to plan the formal observation. The teachers were asked to fill out a post-observation form, which Ms. Jacque discussed with them following the observation. (Jacque testimony)

While serving as Dean of Students during the fall 2013 semester, Regan Stone sat in with Ms. Jacque on approximately 3-5 formal observations of secondary teachers. Afterward, Jacque and Stone discussed what they observed before meeting with the teacher. Ms. Jacque could not specifically recall if Mr. Stone gave any direct feedback to the teachers during these meetings, but she believed his comments would have been in the nature of "I saw three kids off task." Regan Stone did not sign any of the summative evaluations prepared by Ms. Jacque. (Jacque, Stone testimony)

The hearing record includes documentation from three formal teacher observations that occurred in the fall of 2013. One document is entitled "Teacher Pre-Observation

³ No "evaluations" were submitted into the hearing record.

Planning Form," and it includes entries under the headings "Pre-Observation Questions" and "Conference Notes." Ms. Jacque described this as a form that is completed when the evaluator and the teacher initially meet to discuss what will be covered in the lesson that was to be observed. The form is not signed. The second two observation documents list the dates of the "observation" and the "post-conference" and include questions for the teacher and some comments about the observation from the observer(s). The computer metadata for all three of these observation documents states that Regan Stone was the "author" of the documents and that Regan Stone "last modified" the documents. Regan Stone admitted typing up the Pre-Observation Planning Form (State Exhibit 53) based on notes that were taken during the pre-conference with the teacher. Mr. Stone testified that he put the observation notes into the written documents, but Ms. Jacque always reviewed the documents before presenting them to the teacher. (State Exhibits 53, 54, 55; Jacque, Stone testimony)

Regan Stone was required to complete 250 internship hours through on-the-job training while he was enrolled in UNI's graduate program. Superintendent Reeves was Regan Stone's designated mentor for his internship. Ms. Jacque knew that Mr. Stone was working on his internship hours to obtain his principal license and that the internship required a certain number of hours of teacher observations. Mr. Stone testified that he reported the 15 hours that he worked with Amber Jacque on observations as internship hours for his graduate program. (Stone, Jacque, Reeves testimony)

In addition to formal observations, both Ms. Jacque and Mr. Stone conducted informal or "pop-in" classroom observations throughout the school year. Mr. Stone testified that he was not in the classrooms to give substantive advice with respect to teaching. Rather, he visited the classrooms in order to: (1) be visible to students and make sure students understood his expectations; and (2) give assistance and support to teachers with respect to student discipline. (Jacque, Stone testimony)

Amber Jacque was a special education teacher prior to becoming a licensed administrator, and she was in charge of Lone Tree's special education program. The school district is required to provide a district representative at all IEP meetings for special education students. In the past, Ms. Jacque had been Lone Tree's Local Education Agency (LEA) representative. Ms. Jacque and Superintendent Reeves believed that any certified teacher or certified administrator could be designated as a school district's LEA representative. Regan Stone was designated to serve as Lone Tree's LEA representative at IEP meetings while he was serving as the Dean of Students. Regan Stone admits that he participated in more than 5 IEP's meeting as Lone Tree's LEA representative while he was serving as the Dean of Students. Mr.

Stone testified that from speaking to Amber Jacque and Michael Reeves, he believed that he was qualified and authorized to serve as the LEA representative. (Jacque, Stone, Reeves testimony)

Amber Jacque and Regan Stone both gave reports at Lone Tree Board of Education meetings. In the minutes from the Board of Education meeting on July 10, 2013, Mr. Stone's report and Ms. Jacque's report both appear under the heading "Principals' Reports." On that day, Mr. Stone reported to the Board about progress toward student scheduling. Regan Stone continued to make reports to the Board of Education in August 2013 and thereafter, but his reports were referenced in the meeting minutes under the heading "Elementary/Secondary Reports" rather than "Principal's Reports." In his reports to the Board through the year, Mr. Stone reported on student attendance at camps, field trips, and other extracurricular events; behavioral points of emphasis for students; the school's anti-bullying program; enrollment of students in concurrent courses at Kirkwood Community College and internships; integration of technology into the Family and Consumer Sciences Department; Community Service Day; the school's participation in Iowa Learning Online for Health; and the physical education waiver for students in grades 10-12. (Jacque, Stone testimony; State Exhibits 36-44)

At a Board of Education Workshop on August 7, 2013, Regan Stone presented the 2013-2014 Student Handbook to the Board, which he had updated to include a few changes from the prior year. Excerpts from the updated Handbook directed parents to contact Mr. Stone if they had questions or concerns about 7th or 8th Grade Math and their child's Iowa Tests of Basic Skills scores. Ms. Jacque presented the Elementary Handbook, which had no notable changes from the prior year. (Stone testimony; State Exhibits 22, 38)

When there was an opening for a MS/HS math teacher, Regan Stone was given resumes to review and was allowed to sit in with Superintendent Reeves and Amber Jacques for a teacher interview in March 2014. Superintendent Reeves testified that in the past, teachers have been asked to sit in on interviews as well. Both Superintendent Reeves and Regan Stone denied that Mr. Stone was given any authority to recommend who would be hired or to appoint, assign, promote or transfer personnel. Ms. Jacque sent the email to the applicants for the math position notifying them when the hiring decision was made. Mr. Stone testified that he reported the time he spent reviewing resumes and sitting in on interviews as part of his internship hours. (Stone, Reeves testimony; Respondent Exhibit P)

Amber Jacque was responsible for evaluating Regan Stone, and she and Superintendent Reeves developed the following evaluation targets for him:

Target #1: Begin to create a school environment that is safe, positive and structured for Lone Tree students. This environment includes school hallways and school grounds;

Target #2: Build relationships with people involved with the school in an effort to earn respect, gain trust, and create a working environment that allows the school to function at the highest levels. This includes students, teachers, and support staff;

Target #3: Begin the implementation of an anti-bullying program that will help students and staff feel comfortable learning.

Regan Stone's evaluation for 2013-2014 states, in part, that Mr. Stone was: visible in the hallways during morning arrival time, in between classes, and at dismissal and is often seen having positive conversations with students about their lives, behaviors, and classwork; spends time in teacher's classroom observing students and providing feedback to teachers in regard to student behaviors; supervises home and away games and monitors student and adult behaviors throughout the event; spends time getting to know the entire student body by spending time with them in hallways, classrooms and outside activities; oversees the NHS program and works with students to plan the senior trip, high school dances, and graduation; works with Para educators to ensure they are aware of their daily responsibilities and follow their schedules and expectations of the day. (Reeves, Jacque testimony; Respondent Exhibit T)

Complaint and Investigation

Greg Horstmann is a Program Consultant who has been employed by the Iowa Board of Educational Examiners (Board) for 3½ years. Mr. Horstmann was formerly a high school and middle school principal. In his position as a Program Consultant, Mr. Horstmann is the primary resource person at the Board for questions concerning administrator licenses. (Horstmann testimony)

On February 11, 2014, Greg Horstmann received a call from a Lone Tree teacher (CB) who had questions about a dual enrollment class that she was teaching through Lone Tree and Kirkwood Community College. Following this conversation, Greg Horstmann reviewed Lone Tree's website where he saw that "MS/HS Dean of Students- Mr. Regan

Stone" was listed on the home page for Lone Tree's website under "HS/MS Administration." Amber Jacque was listed as the Elementary Principal, but there was no middle/high school principal listed. (Horstmann testimony; State Exhibit 29, p. 1)

Greg Horstmann then reviewed additional pages of Lone Tree's website, and found a chart listing the "Middle School/High School Administration and Faculty" by name and position. On this chart, Regan Stone was listed as the "6-12 Principal," and there was no entry for Amber Jacque. Another Board Consultant checked the BEDS Report that had been filed with the Department of Education (DOE) on behalf of Lone Tree. The BEDS report listed Amber Jacque as Lone Tree's elementary principal, but it did not list any high school principal. (Horstmann testimony; State Exhibit 29, p. 3)

After reviewing Lone Tree's website, Greg Horstmann called the school and asked to speak to the high school principal. The person answering the call told Horstmann that "Mr. Stone" was busy, but she connected Mr. Horstmann to Mr. Stone's voice mail. Mr. Horstmann left a voicemail message for Mr. Stone asking about teacher CB's assignment. A few hours later, Mr. Horstmann left Mr. Stone a follow-up email. Later that same day, Superintendent Reeves called Greg Horstmann and stated that he was calling about the email that Horstmann had left for the "high school principal." After they discussed CB's assignment, Mr. Horstmann asked Mr. Reeves about Regan Stone's position as Dean of Students. Mr. Reeves responded that he thought they had done everything right and that Amber Jacques was the PK-12 Principal and Regan Stone was the Dean of Students. (Horstmann testimony; State Exhibits 13, 33)

Greg Horstmann then asked Superintendent Reeves why the school secretary referred him to Regan Stone when he asked to speak to the high school principal. Mr. Reeves responded that the school secretary probably thinks that Regan Stone is the school principal. Greg Horstmann also asked Mr. Reeves why Regan Stone was listed on the school's website as the 6-12 Principal and why Amber Jacque was only listed as the elementary principal. Mr. Reeves responded that those must be mistakes on the website. Greg Horstmann asked Mr. Reeves why Lone Tree did not report a 6-12 Principal on its BEDS report, and Mr. Reeves described that as a reporting mistake. Mr. Reeves admitted to Mr. Horstmann that members of the community would likely say that Regan Stone was the high school principal. (Horstmann testimony; State Exhibits 13, 33)

Superintendent Reeves followed up this telephone conversation by sending Greg Horstmann an email that same day. In his email, Mr. Reeves provided further explanation about the circumstances that led to him offering Regan Stone the Dean of

Students position, and he attached copies of the employment contracts for Amber Jacque and Regan Stone. In this email, Mr. Reeves stated, in part:

...Having been an outstanding teacher, we feel Mr. Stone will one day be a great administrator. Knowing that he was not certified, we offered Mr. Stone a contract as Dean of Students while he pursued his degree and could become certified. We were comfortable doing so because we had Mrs. Amber Jacque as a current administrator who was endorsed (K-12) and Mr. Mark Hopkins, a former administrator (and former principal in our building), to help give guidance and do the educational part of the position. We talked about mentoring Mr. Stone and felt that allowing Mr. Stone to do scheduling, discipline, supervision, and day-to-day management, fit the role of the Dean of Students. We paid Mrs. Jacque extra to do evaluations and administrative duties requiring licensure. We felt good about the appointment since Mr. Hopkins would be doing our professional development, instructional coaching, and educational leadership and Mrs. Jacque would be doing our evaluations....

(Respondent Exhibit A) At hearing, Superintendent Reeves testified that by "day-to-day management, he meant the "blue collar" stuff like greeting students at the door, handing out notes to students, daily tasks of managing the students, and making sure that students were where they belong. Mr. Stone also made arrangements for substitute teachers, which is a task that the school secretary had previously been handling. (Reeves testimony)

At hearing, Superintendent Reeves testified that the school's business manager (Kelly Forbes) was responsible for making the BEDS report and that neither Mr. Reeves nor Regan Stone made entries to Lone Star's website. Mr. Reeves testified that several different clerical employees made entries to the website. (Reeves, Stone testimony)

No one from the community had ever complained to Superintendent Reeves about Mr. Stone's position as Dean of Students. Superintendent Reeves testified that it was his impression that Mr. Horstmann's main concern was the community's perception of Regan Stone as Lone Tree's Secondary Principal so he decided to take some steps to try to correct any misperceptions. At the next Board of Education meeting on March 12, 2014, the Dean of Students position was reviewed and described. (Respondent Exhibit B) In addition, Lone Tree publishes a weekly "Commun-O-Gram" that is placed on the website and sent home with every PK-8th grade student. Superintendent Reeves arranged for an article to be included in the February 28, 2014 Commun-O-Gram to

clarify Regan Stone's role as Dean of Students. The article stated that questions about a student behavior incident should be directed to Mr. Stone, that scheduling questions can be addressed to Mrs. Bryce or Mr. Stone, that academic concerns should be presented first to the teacher and then to Mrs. Jacque, and that questions about facility use should go to the Mr. Squiers (Activities Director) or Mr. Stone. (Reeves, Bryce testimony; Respondent Exhibit M)

Gregg Horstmann later discovered that Regan Stone had been listed in the 2013-2014 Iowa High School Directory as Principal, and Amber Jacque was listed as Asst/Assoc/Vice-Principal. This is apparently a publication of the Iowa High School Athletic Association (IHSAA). According to Superintendent Reeves, the individuals listed in this directory received a ticket that allowed free entry to all athletic events. Mr. Stone was to be Lone Tree's representative at most after school activities and sporting events during the 2013-2014 school year. Ms. Jacque had generally been excused from these duties due to her family obligations. Mr. Reeves testified that he tried to submit Mr. Stone's name to the IHSAA as Dean of Students but was told that only principals could be listed in the directory and receive the free ticket. Mr. Reeves allowed Mr. Stone to be listed in the directory as the principal so he would get free admission to sports activities. Regan Stone testified that he did not know that he had been listed in the directory as a principal until he reviewed Exhibit 32 on the first day of hearing. (Reeves testimony; State Exhibit 32).

The hearing record includes a copy of an "Experience Verification Form," which had been signed by Regan Stone on November 28, 2013 on a line reserved for the "Signature of Administrator." By signing this form, Mr. Stone was verifying to the Iowa Board of Educational Examiners that the person had served successfully as a teacher in the Lone Tree School District during the dates indicated on the form. Regan Stone testified that he signed this document because "it came across his desk," and he was probably a little naïve at the time. He further testified that the information on the form concerning the teacher's years of experience was accurate. (Horstmann, Stone testimony; State Exhibit 23)

Regan Stone was listed with Amber Jacque as a "Presenter" for Lone Tree's 2013-2014 Mentor-Mentee Program, which was apparently held once a month in the school library during the 2013-2014 school year to address the teaching standards. Regan Stone was not sure he ever "presented" at this program. It was his recollection that Amber Jacque developed and presented the program and that he "tagged along." Ms. Jacque testified that Mr. Stone was present "primarily as an observer." (Jacque, Stone testimony; State Exhibit 24)

On June 25, 2015, the Board's Executive Director provided notice to "Education Stakeholders" that:

Effective with the start of the 2015-2016 school year, all individuals who are in Dean of Students positions will be required to hold an administrator license through the BoEE. These types of positions have led to a myriad of BEDS reporting and licensing issues in recent years. Coupled with the implementation of School Administrative Manager licensure, the BoEE and DE have decided to modify the licensure requirements and BEDS reporting requirements for these positions.

(Respondent Exhibit R)

CONCLUSIONS OF LAW

I. Relevant Statutes and Rules

The Iowa Code requires any person employed as a practitioner in the state of Iowa to hold a valid license with an endorsement for the type of service for which the person is employed.⁴ The legislature has authorized the Board to develop a code of professional rights and responsibilities, practices, and ethics.⁵ The Board has adopted a Code of Professional Conduct and Ethics in its administrative rules at 282 IAC chapter 25.

Standard V of the Code of Professional Conduct and Ethics, which is found at 282 IAC 25.3(5)(a), addresses violations of contractual obligations. Violation of this standard includes:

...

(4) As an employer, executing a written professional employment contract with a practitioner, which requires the performance of duties that the practitioner is not legally qualified to perform.

(5) As a practitioner, executing a written professional employment contract, which requires the performance of duties that the practitioner is not legally qualified to perform.⁶

⁴ Iowa Code section 272.7 (2013, 2015).

⁵ Iowa Code section 272.2(1)(2013, 2015).

⁶ 282 IAC 25.3(5)(a).

Standard VI of the Board's Code of Professional Conduct and Ethics addresses unethical practice toward other members of the profession, parents, students, and the community. Violation of this standard includes:

...

l. Delegating tasks to unqualified personnel.

...

o. Performing services beyond the authorized scope of practice for which the individual is licensed or prepared or performing services without holding a valid license.⁷

The Board's statute provides the following relevant definitions:

"Administrator" means a person who is licensed to coordinate, supervise, or direct an educational program or the activities of other practitioners.⁸

"Practitioner" means an administrator, teacher, or other licensed professional, including an individual who holds a statement of professional recognition, who provides educational assistance to students.⁹

"Principal" means a licensed member of a school's instructional staff who serves as an instructional leader, coordinates the process and substance of educational and instructional programs, coordinates the budget of the school, provides formative evaluation for all practitioners and other persons in the school, recommends or has effective authority to appoint, assign, promote or transfer personnel in a school building, implements the local school board's policy in a manner consistent with professional practice and ethics, and assists in the development and supervision of a school's activities program.¹⁰

The Board's definition of "Principal" is mirrored in the administrative rules of the Department of Education (DOE).¹¹ The DOE's administrative rules require each school board that operates a secondary school to employ at least one secondary principal. This position may be combined with that of an elementary principal, however, or with a

⁷ 282 IAC 25.3(6).

⁸ Iowa Code section 272.1(1)(2013,2015).

⁹ Iowa Code section 272.1(7)(2013,2015).

¹⁰ Iowa Code section 272.1(9)(2013,2015).

¹¹ 281 IAC 12.4(7).

teaching assignment at the elementary or secondary level, provided the individual holds the proper licenses/certificates and endorsements.¹² The DOE's statute requires principals to hold a current valid principal's certificate.¹³

The DOE's statute further provides that:

The principal, under the supervision of the superintendent of the school district, shall be responsible for the administration and operation of the attendance center to which the principal is assigned. It further provides that the principal shall, pursuant to the policies adopted by the board of directors of the school district, be responsible for the planning, management, operation, and evaluation of the educational program offered at the attendance center to which the principal is assigned and shall submit recommendations to the superintendent regarding the appointment, assignment, promotion, transfer, and dismissal of all personnel assigned to the attendance center. The principal shall perform such other duties as may be assigned by the superintendent.¹⁴

II. Alleged Violations of 282 IAC 25.3(5)"a" [Count I]

Respondent Michael Reeves was charged with violating 282 IAC 25.3(5)"a"(4) and Respondent Regan Stone was charged with violating 282 IAC 25.3"a"(5), based on the execution of Mr. Stone's employment contract as Dean of Students for the 2013-2014 school year. With respect to Count I against both Respondents, the key question is whether the written contract signed by Regan Stone to serve as Lone Tree's "Dean of Students" required him to perform duties that he was not legally qualified to perform.

At all times relevant to this decision, there was no legal requirement for an individual employed by a school district as a Dean of Students to be a licensed administrator. The statutes enacted by the legislature and the administrative rules adopted by the Board and the DOE did not identify or define the position of "Dean of Students." The statutes and rules did not identify the duties that a "Dean of Students" was legally qualified to perform. Although the permissible scope of duties for a Dean of Students is disputed in this proceeding, there appears to be no dispute that Lone Tree was legally permitted to employ a Dean of Students, who was not a licensed administrator, to perform duties directly related student discipline and management.

¹² 281 IAC 12.4(6).

¹³ Iowa Code section 279.21(2013,2015).

¹⁴ Iowa Code section 279.21(2013, 2015).

Iowa Code section 279.13(1)(a)(2013) provides, in relevant part:

Contracts with teachers, which for the purpose of this section means all licensed employees of a school district and nurses employed by the board, excluding superintendents, assistant superintendents, principals, and assistant principals, shall be in writing and shall state the number of contract days, the annual compensation to be paid, and any other matters as may be mutually agreed upon.”¹⁵

The written employment contract that was offered to Regan Stone and signed by him on May 9, 2013 states, in relevant part, that: “said Dean of Students agrees to perform faithfully the duties thereof...” However, the only duty specified on the face of the written contract is: “Attend and report at School Board meetings at request of Superintendent.” The contract does not specify what subject Mr. Stone might be required to report to the school board about. Presumably the superintendent could require any school district employee to attend and report to the school board on a matter relevant to their employment. This duty is not one that is inherently reserved to a licensed administrator by statute or rule.

The state’s brief asserts, without legal citation or discussion, that the Dean of Students contract “incorporates” the Position Description for the Secondary (6-12) Dean of Students (State Exhibit 18). (See State’s Brief at p. 7) Under the doctrine of incorporation, one document becomes part of another separate document simply by reference if the former is fully set out in the latter.¹⁶ Where a writing refers to another document, that other document, or so much of it as is referred to, is to be interpreted as part of the writing.¹⁷ Whether material is incorporated by reference presents a question of law.¹⁸ The Iowa Supreme Court has held that clear and specific reference is required to incorporate an extrinsic document by reference.¹⁹

The written contract that was signed by Regan Stone, however, does not expressly incorporate or reference the Dean of Students Position Description. Indeed, there is no

¹⁵ See also, Iowa Code section 279.23(1)(e)(2013)(providing that contracts with administrators shall be in writing and shall contain all of the following:...Such other matters as may be agreed upon.

¹⁶ *Hofmeyer v. Iowa Dist. Court for Fayette County*, 640 N.W. 2d 225, 228 (Iowa 2001)(rehearing denied October 29, 2001)(citing Richard A. Lord, *Williston on Contracts* §628 (3d ed. 1961)).

¹⁷ *Id.*

¹⁸ *Hofmeyer*, 640 N.W.2d at 228 (citing Richard A. Lord, *Williston on Contracts* §30:25(4th ed. 1999)).

¹⁹ *Hofmeyer*, 640 N.W.2d at 228-229.

testimony or evidence in the record to establish when the Dean of Students Position Description was created or if it was in existence prior to Regan Stone's execution of his written employment contract. Under these circumstances, it cannot be concluded as a matter of law that the written contract signed by Regan Stone "incorporates" the Dean of Students Position Description. Therefore, the only duty that is specifically identified in the contract is one that Regan Stone was legally qualified to perform.

The preponderance of the evidence failed to establish that Respondent Regan Stone executed a written professional employment contract that required the performance of duties that he was not qualified to perform, in violation of 282 IAC 25.3(5)"a"(5). Count I against Respondent Regan Stone must be DISMISSED.

The preponderance of the evidence failed to establish that Respondent Michael Reeves executed a written professional employment contract with a practitioner that required the performance of duties that the practitioner was not qualified to perform, in violation of 282 IAC 25.3(5)"a"(4). Count I against Respondent Michael Reeves must be DISMISSED.

III. Alleged Violations of 282 IAC 25.3(6) [Count II]

Respondent Michael Reeves was charged with violating 282 IAC 25.3(6)"l" and Respondent Regan Stone was charged with violating 282 IAC 25.3(6)"o," based on the allegations that Regan Stone was delegated and performed duties, while employed as Dean of Students, which could only be performed by a properly licensed administrator. The statutes and rules of the Board and of the Department of Education constitute the primary legal authority when determining what duties or functions may only be performed by a properly licensed administrator or principal.

As mentioned at hearing, principals often perform a very wide range of duties within a school, not all of which would require licensure as an administrator. Although it is likely that most (if not all) principals have some responsibilities with respect to student management and discipline, none of the relevant statutes and rules include "student discipline" or student management" among the listed duties or responsibilities of a licensed administrator or principal. At the time that Respondent Regan Stone was employed as Dean of Students, it was legally permissible (and accepted by the Board and the DOE) for a school district to employ a Dean of Students, who was not licensed as an administrator, to perform duties related to student discipline and student management. The key issues with respect to Count II are (1) what additional duties, beyond those directly related to student discipline and student management, were

delegated to and performed by Mr. Stone, and (2) whether or not those additional duties required licensure as an administrator. The state maintains that Regan Stone was delegated and performed a number of duties that required an administrator's license. Respondents maintain that most if not all of the additional duties delegated to and actually performed by Regan Stone did not require administrator licensure.

Instructional Leadership; Coordinating, Supervising and Directing the Process and Substance of Educational Programs. These are clearly duties that must be performed by a properly licensed administrator.²⁰ The preponderance of the evidence in the record established that Amber Jacque and Mark Hopkins, both of whom were properly licensed administrators, served as Lone Tree's instructional leaders and were responsible for coordinating, supervising and directing the process and substance of Lone Tree's educational programs while Regan Stone was employed as the Dean of Students.

Evaluations. Providing "formative evaluations" of other practitioners is a duty that may only be performed by a licensed administrator.²¹ Amber Jacque was under contract to serve as Lone Tree's K-12 Principal during the time that Regan Stone was employed as the Dean of Students, and she was given additional compensation for her additional duties as Secondary Principal. Based on Ms. Jacque's testimony at hearing, it is clear that she fully understood that as K-12 Principal she was responsible for completing all teacher evaluations and for any teacher discipline. Both Ms. Jacque and Mr. Stone credibly testified that Ms. Jacque prepared and signed all of the teacher evaluations during the 2013-2014 school year.

Ms. Jacque testified that she completed the 13 teacher evaluations for the 2013-2014 school year, including 5 or 6 evaluations of secondary teachers. Ms. Jacque allowed Mr. Stone to sit in with her on the formal observations of approximately 5 of the secondary teachers who were to be evaluated during the 2013-2014 school year, and they discussed their observations in the classroom with each other and with the teacher. Observations are part of the evaluation process, but they do not themselves constitute an evaluation. Mr. Stone admitted that he typed up three observation documents in the fall of 2013 based on their notes, but he testified that Ms. Jacque reviewed these documents before they were presented to the teacher. There is insufficient evidence in the record to refute testimony that indicated the purpose of Mr. Stone's participation in the observation process was to learn from Ms. Jacque and to obtain internship experience for his graduate program. The state failed to establish that Mr. Stone's

²⁰ Iowa Code section 272.1(9); 272.1(7)(2013,2015).

²¹ *Id.*

limited participation in these formal observations required licensure as an administrator.

*Recommending or Having Authority to Appoint, Assign, Promote, or Transfer Personnel in a School Building.*²² The preponderance of the evidence in the record established that Regan Stone reviewed some resumes and sat in on interviews with Superintendent Reeves and Principal Jacque while employed as the Dean of Students. There was insufficient evidence, however, to establish that Mr. Stone was given any authority to recommend, appoint, assign, promote, or transfer personnel while employed as Dean of Students. The state failed to establish that Mr. Stone's limited participation in the interview process required licensure as an administrator.

Administration and Operation of the Attendance Center. According to Lone Tree's Position Description, the Primary Function of the Dean of Students position is "[p]roviding for effective day-to-day operation of the high school through effective communication." (State Exhibit 18) There are nine subheadings listed under this primary function. This Primary Function is essentially identical to Key Duty #5 as it appeared in Lone Tree's Position Description for the 6-12 Principal (State Exhibit 19). The majority of these subheadings pertain to communication, communication skills, and demonstrating positive interpersonal relationships with students, staff, parents, and administrators. As pointed out at hearing, these are expectations that could apply to any licensed practitioner and are not uniquely in the province of a licensed administrator. In addition, subsection "b" (keeping students and staff informed of changes in schedule, activities, events disciplinary procedure) and subsection "i" (ensure safe environment and environment conducive to learning) do have a reasonable relationship to student management/discipline and the proper role of a Dean of Students.

*Coordinating, supervising or directing an educational program or the activities of other practitioners.*²³ By statute, an "administrator" is a person licensed to coordinate, supervise, or direct an educational program or the activities of other practitioners. The most problematic subsection of the Dean of Student's Primary Function is subsection "c" (Communicating frequently with staff members about their responsibility in relation to student achievement). Although Mr. Stone testified that the teacher leadership team may also perform this function, this provision certainly gives the impression that the Dean of Students would have a role in supervising or directing the activities of other practitioners with respect to their performance as it affects student achievement or learning. This impression is bolstered by the fact that Regan Stone was

²² Iowa Code sections 272.2(9);279.21(2013, 2015).

²³ Iowa Code section 272.1(1)(2013, 2015)(emphasis added).

given the responsibility for conducting all secondary staff meetings. Finally, excerpts from the High School Handbook, which was updated and presented to the Board of Education by Regan Stone, directed parents to contact Mr. Stone if they had questions or concern about 7th or 8th Grade Math and their child's Iowa Tests of Basic Skills scores. (State Exhibit 22). The preponderance of the evidence in the record established that with respect to these responsibilities, Mr. Stone's Dean of Students duties involved at least some coordination with respect to an education program and at least some supervision or direction of other practitioner's activities. These duties required licensure as an administrator.

Attending IEP meetings as Lone Tree's representative. The preponderance of the evidence established that Superintendent Reeves delegated the responsibility for serving as the school district's representative on the IEP Team to Regan Stone while he was employed as the 6-12 Dean of Students. Prior to Mr. Stone becoming the "Dean of Students," the 6-12 Principal was serving as the school district's representative on the IEP Team. It appears that there was a general misconception at Lone Tree that any certified teacher could serve on the IEP Team as the school district's representative. This was incorrect. 281 IAC 41.321(1)"d" requires the representative of the public agency to be "qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities. 281 IAC 41.401 requires special education personnel to meet the Board's licensure (certification) and endorsement of recognition requirements for the position for which they are employed.

During the 2013-2014 school year, Regan Stone was not certified as a special education teacher, and he was not licensed as an administrator. As previously discussed, an "administrator" is a person licensed to coordinate, *supervise*, or direct an educational program or the activities of other practitioners."²⁴ "Supervision of instruction" is also one of the specifically named duties of a principal in Iowa Code section 272.1(9). Mr. Stone was not qualified to provide specially designed instruction to meet the unique needs of children with disabilities because he was not a certified special education teacher. Mr. Stone was not qualified to supervise the provision of special education because only licensed administrators are qualified to supervise the activities of other practitioners. For these reasons, Mr. Stone was not legally qualified to serve as the school district's representative on the IEP team.

Signing an "Experience Verification" form as an "administrator. During the 2013-2014 school year, Regan Stone signed a form that required the signature of an administrator

²⁴ Iowa Code section 272.1(1)(emphasis supplied).

in order to verify an individual's years of successful teaching experience to the Board of Educational Examiners. Mr. Stone signed the form on the signature line for an "administrator." Mr. Stone was not a licensed administrator when he signed this form, and he was not qualified to verify the teacher's experience for the Board.

Involvement in developing the class schedule and meeting with students for scheduling. Based on this record, it is unclear whether Regan Stone's level of responsibility and involvement with student scheduling exceeded what could properly be performed by a Dean of Students.

Being held out to the community as the secondary principal. Superintendent Reeves clearly knew, when he developed the plan to combine the two principal positions and employ a Dean of Students for two years, that Regan Stone was not legally qualified as a principal and that there were a number of duties that could only be performed by one of Lone Tree's properly licensed administrators. Nevertheless, several document entries (meeting minutes, website, BEDS report) were made on behalf of the Lone Tree school district that either directly or indirectly misidentified Regan Stone as Lone Tree's principal or that failed to identify Amber Jacque as the current secondary principal. Mr. Stone denies that making any of these entries, and Superintendent Reeves contends that all but the Iowa High School Directory reference were inadvertent errors made by other staff members. Regardless of who made these errors, they demonstrate Superintendent Reeves' lack of attention to detail in making sure that Regan Stone was properly identified to all of the school district's stakeholders as the Dean of Students and that Amber Jacque was properly identified and recognized as the Elementary/Secondary Principal. Moreover, there was a lack of attention to detail in identifying the permissible parameters for the Dean of Students position and in making sure that the scope of duties performed by Mr. Stone did not cross over the line into those solely reserved for a properly licensed principal.

Summary. The preponderance of the evidence established that Respondent Michael Reeves violated 282 IAC 25.3(6)"1" and Respondent Regan Stone violated 282 IAC 25.3(6)"o" as charged in Count II. Some of the duties delegated to Regan Stone and performed by him required licensure as an administrator or as a principal. Regan Stone was not qualified to sign a document as an administrator, to serve as the school district's representative on the IEP team, to supervise or manage the activities of other licensed practitioners, or to coordinate any of the school's educational programs.

IV. Sanction

With respect to sanction, the state requested a 24 month license suspension for Respondent Michael Reeves and a 12 month license suspension for Respondent Regan Stone. The state asserts that the facts of this case are nearly identical to a prior Board case, decided in 2011, which imposed an 8 month suspension on an individual who served as the "Interim Principal" during two school years when she was not a licensed administrator. (*Welk*, Case No. 10-12, State Exhibit 49) In 2010, the Board also imposed an 8 month suspension on an individual who served as the superintendent of a school district for 8 months when he did not have the proper endorsement to serve as an administrator. (*Rodemeyer*, Case No. 10-09, State Exhibit 48) There are a number of facts in the present case, however, that distinguish it from both *Welk* and *Rodemeyer*.

- Rodemeyer, who was a licensed administrator with a principal endorsement, signed a contract to serve as a school district's combined Elementary Principal/Superintendent when he was enrolled in coursework at UNI to obtain the superintendent endorsement. The school district had no other superintendent for the eight month period that Rodemeyer was in this position and was performing the duties of a superintendent;
- Welk, who was a licensed teacher, was employed as a school district's "Interim Principal" for an elementary school and served in that position for two school years while she was working towards obtaining her administrator license. Welk understood that another properly licensed administrator in the school district was designated as the "principal of record" and would provide supervision for her. The "principal of record" was located in another building and received no additional compensation for serving in this position. She met with Welk weekly and tried to visit the elementary school at least once a week but was not always in the building that often. Welk's duties as "Interim Principal" included day-to-day management of the building and responsibility for minor student discipline, developing schedules, student attendance, scheduling substitute teachers, supervising the computer assisted learning program, ensuring teachers had necessary supplies, supervising building construction, supervising support staff, student safety, managing student achievement data, and evaluating all staff.

In contrast, Regan Stone was not offered and he did not sign a contract for a position (i.e. Principal/Superintendent) that required an administrator license. Not only did a Dean of Students position not require an administrator license, it is clear that there was confusion in the state concerning the permissible scope of duties that could be performed by a Dean of Students. Moreover, in the present case there was a properly

licensed person, Amber Jacque, who signed a contract to be the Elementary/Secondary Principal and who was provided additional compensation for serving as the Secondary Principal. In addition, another properly qualified person, Mark Hopkins, signed a part-time contract as Instructional Leader and was compensated to assume responsibility for many of the instructional leadership roles associated with the Secondary Principal. Amber Jacque, Mark Hopkins, and Superintendent Reeves all had their offices in the same self-contained building as Regan Stone. Unlike Welk, Regan Stone did not assume or exercise responsibility for managing student achievement data or for evaluating staff, both of which are clearly duties reserved for a licensed administrator.

The third prior Board case relied on by the state (*Giannetto*, Case No. 10-56, State Exhibit 50) was decided in 2011 and also has distinguishable facts. *Giannetto* was charged with falsifying material information regarding her personal qualifications when applying for employment and licensure (Count I), executing a contract requiring the performance of duties that she was not legally qualified to perform (Count II) and performing duties beyond the authorized scope of her licensure (Count III). When *Giannetto* applied for a part-time position to teach elementary art, she submitted a resume that stated she had an elementary art endorsement. In July 2010, *Giannetto* signed a provisional contract to teach elementary art at a time when she did not yet have her initial teaching license. When she did obtain her teaching license in August, her only endorsement was for 5-12 Art. *Giannetto* did not tell her principal that she did not have the endorsement to teach elementary art until she was confronted by him in October 2010, after he entered her name into the BEDS as the elementary art teacher and got a red flag that she did not have the proper endorsement. Following hearing, violations were found on all three counts. *Giannetto* received a 12 month suspension for Count I (falsifying material information), and a two month suspension for Counts II and III.

Respondents also submitted a number of the Board's prior disciplinary cases. (Respondent Exhibits Y, Z, AA-FF) One of these cases (*Kleene*, Case No. 10-49, State Exhibit Z) was decided by the Board in 2011 based upon a stipulated evidentiary record. In that case, the Board dismissed charges against *Kleene*, who had an expired Reading endorsement and was serving as a co-teacher in a Reading classroom, along with two other teachers, one of whom had the proper reading endorsement. The Board found that the state failed to establish that *Kleene* actually performed any services in the classroom with respect to the Reading curriculum that fell within the definition of "teacher."

All but one of the other cases submitted by Respondents involved legal charges similar to the charges against Respondents, but they were resolved through settlements (Stipulation and Order). This makes it more difficult to compare the basis for those sanctions to the requested sanction in this case because there were only allegations, and no Findings of Fact. (State Exhibits Y, AA-EE). The sanctions in these cases included a written reprimand, a written reprimand with completion of the "Ethics for Educators" course within four months, a one month suspension, and two deferred suspensions that would not be served if an ethics course was completed or other conditions were met. The most recent case was resolved by the Board in February 2015 and imposed a written reprimand and completion of the Ethics for Educators course within four months. The factual allegations in that case concerned a principal that allegedly gave teaching assignments to four people who were not properly licensed (two did not have Iowa teaching licenses, one had an expired Iowa teaching license, and one did not have the proper physical education endorsement for the assigned class). (State Exhibit BB)

When the specific circumstances of the present cases and the Board's prior sanctions in similar types of cases are fully considered, the state's requested sanctions in this case appear excessively harsh. Superintendent Reeves believed he had structured the Dean of Students position so that it did not include any of the duties that he understood to require an administrator's license. Properly licensed individuals were employed and compensated to perform most of the duties that are listed in the statutory definitions of "administrator" and "principal." These individuals worked under the same roof and in close proximity to Regan Stone. Although a number of mistakes were clearly made by both Superintendent Reeves and Regan Stone, it does not appear that any of the violations were intentional. There was also no evidence that any student, teacher, or community member suffered any harm as a result of these violations.

DECISION AND ORDER

IT IS THEREFORE ORDERED that License No. 175509, issued to Respondent Michael Reeves, shall be SUSPENDED for a period of six (6) months. Imposition of the suspension is DEFERRED, however, for a period of 120 days from the date of the Board's final order in this matter. In order to avoid imposition of the six month suspension, Respondent Michael Reeves must successfully complete the fifteen contact hour course "Ethics for Educators" and must submit proof of completion of the course to the Board within this 120 day period. Respondent is responsible for all costs associated with completion of the Ethics course. The six (6) month suspension will be VACATED upon timely receipt of verification of Respondent Reeves' completion of the ethics course. If the Ethics course is not successfully completed and verification of

completion is not received within the 120 day period, then the six (6) month suspension will be imposed beginning on the 121st day.

IT IS FURTHER ORDERED that License No. 354186, issued to Respondent Regan Stone, shall be SUSPENDED for a period of three (3) months. Imposition of the suspension is DEFERRED, however, for a period of 120 days from the date of the Board's final order in this matter. In order to avoid imposition of the three month suspension, Respondent Regan Stone must successfully complete the fifteen contact hour course "Ethics for Educators" and must submit proof of completion of the course to the Board within this 120 day period. Respondent is responsible for all costs associated with completion of the Ethics course. The three (3) month suspension will be VACATED upon timely receipt of verification of Respondent Stone's completion of the ethics course. If the Ethics course is not successfully completed and verification of completion is not received within the 120 day period, then the three (3) month suspension will be imposed beginning on the 121st day.

Dated this 28th day September, 2015.

Margaret LaMarche

Margaret LaMarche
Administrative Law Judge
Iowa Department of Inspections and Appeals
Administrative Hearings Division
Wallace State Office Building-Third Floor
Des Moines, Iowa 50319

cc: Brian L. Gruhn, Gruhn Law Firm, 2405 Westdale Drive SW, Cedar Rapids, Iowa
52404 (CERTIFIED)

C. Joseph Holland, Holland Law Office PLC, 123 N. Linn Street, Suite 300, PO
Box 2820, Iowa City, Iowa 52244-2820 (CERTIFIED)

Renner Walker, Assistant Attorney General, Iowa Department of Justice, Hoover
Building, 2nd Floor (LOCAL MAIL)

Duane Magee, Executive Director, Iowa Board of Educational Examiners, Grimes
State Office Building (LOCAL MAIL)

A proposed decision may be appealed to the Iowa Board of Educational Examiners (Board) by a party to the decision who is adversely affected. An appeal is initiated by serving a notice of appeal with the board within 30 days after issuance of the proposed decision. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify the parties initiating the appeal, the proposed decision or order appealed from, the specific findings or conclusions to which exception is taken and any other exceptions to the decision or order, the relief sought, and the grounds for relief. 282 IAC 11.28.

**BEFORE THE BOARD OF EDUCATIONAL EXAMINERS
OF THE STATE OF IOWA**

In the matter of	)	Case No. 14-23
	)	License No. 354186
REGAN STONE,)	
	)	NOTICE OF HEARING
Respondent.	)	AND STATEMENT OF CHARGES

YOU ARE HEREBY NOTIFIED that the Iowa Board of Educational Examiners, exercising the jurisdiction conferred by Iowa Code chapters 17A and 272, has found probable cause of a violation of Board rules and ordered this matter scheduled for hearing.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing will be held on Wednesday and Thursday, April 15-16, 2015, before Administrative Law Judge Margaret LaMarche, acting on behalf of the Iowa Board of Educational Examiners. The hearing shall begin at 9:00 a.m. in Department of Inspections and Appeals, Wallace State Office Bldg, Third Floor, 502 E. 9th Street (East 9th and Grand Avenue), Des Moines, Iowa. You should report to the third floor Iowa Department of Inspections and Appeals' (DIA) receptionist prior to 9:00 a.m. to obtain the room assignment.

2. Answer. Within twenty (20) days of the date of service of this Notice of Hearing, you are required to file an Answer specifically admitting, denying, or otherwise responding to the allegations included within the Factual Allegations. In that Answer, you should also state whether you will require an adjustment of the date and time of the hearing. A copy of the Answer shall be provided by the Respondent to the Assistant Attorney General identified below.

3. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 282 Iowa Administrative Code (IAC) chapter 11. At hearing, you may appear personally or be represented by an attorney, at your own expense. You will be allowed the opportunity to respond to the charges against you. Each party will be allowed to testify, examine and cross-examine witnesses, and present documentary evidence. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence. If you need to request an alternative time or date for hearing, you must comply with the requirements of 282 IAC 11.19.

If either party wishes to present telephonic testimony or to participate in the hearing by telephone, arrangements must be made at least ten (10) days in advance of the hearing date by filing a written request with the presiding Administrative Law Judge, Department of Inspections and Appeals, Wallace State Office Building, Des Moines, Iowa 50319, or by faxing a written request to (515) 281-4477. A copy of the

request for telephonic testimony must be served on the Board and all parties. Any resistance to the request for telephone testimony must be filed within five (5) days of service of the notice.

4. Pre-hearing conference. Either party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board rules regarding pre-hearing conferences are found in 282 IAC 11.18.

5. Prosecution. The office of the Attorney General is responsible for prosecuting and representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address:

Renner K. Walker
Assistant Attorney General
Iowa Department of Justice
2nd Floor, Hoover State Office Building
1305 E. Walnut St.
Des Moines, Iowa 50319
Telephone (515) 281-7175

6. Communications. You may not contact Board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing or the pending charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve on all parties in the case. You should direct any questions about this proceeding to Duane T. Magee, the Board's Executive Director, at (515) 281-5849 or to Assistant Attorney General Walker at (515) 281-7175 .

B. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

7. Respondent is charged with executing a written professional employment contract which requires the performance of duties that the practitioner is not legally qualified to perform, in violation of Board rule 282 IAC 25.3(5)(a)(5).

Count II

8. Respondent is charged with unethical conduct by performing services beyond the authorized scope of practice for which the individual is licensed or prepared or performing services without holding a valid license, in violation of Board rule 282 IAC 25.3(6)(o).

C. JURISDICTION AND LEGAL AUTHORITY

9. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A and 272. If any of the allegations against you are proven at hearing, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A and 272, and 282 IAC chapter 11.

D. FACTUAL CIRCUMSTANCES

10. Respondent holds a STANDARD LICENSE (FOLDER # 354186) with the following endorsements: K-6 Teacher Elementary Classroom; K-8 English/Language Arts; 5-12 English/Language Arts; K-12 Athletic Coach. Respondent's license is current and will next expire on August 31, 2019. On or about January 16, 2015, Respondent was issued a CLASS B PROFESSIONAL ADMINISTRATOR LICENSE, which is current and will next expire on June 30, 2016. Finally, Respondent also holds an expired Coaching Authorization.

11. Respondent began employment with the Lone Tree Community School District (the District) on May 9, 2005. Respondent was originally hired as the High School Language Arts teacher and coach for Junior High Girls Basketball. Respondent accepted a position as "Dean of Students" on May 9, 2013.

12. On February 25, 2014, the Board of Educational Examiners received a complaint against Respondent alleging a violation of the Code of Ethics. On June 20, 2014, the Board found probable cause to proceed to hearing based upon the facts set forth herein and delineated in further detail within the complaint and investigation file compiled by the Board.

13. Investigation revealed that Respondent accepted a position as "Dean of Students" on May 9, 2013.

14. However, Respondent's contract and job description for the Dean of Students position requires the performance duties that require a professional administrator license to perform. Respondent's contract also called for the Lone Tree Community School District to pay Respondent's dues to the State and National Principals' Associations, as well as to pay for education necessary for Respondent to obtain professional administrator certification.

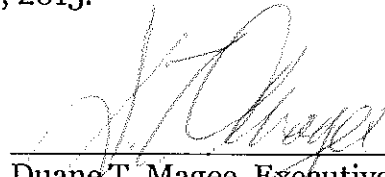
15. Respondent did not hold a professional administrator license at the time Respondent accepted the position. Respondent ultimately obtained a Class B Professional Administrator License—as contemplated by the contract—on or about January 16, 2015.

16. Finally, Respondent was repeatedly held out by the school district to the community as the high school principal.

E. SETTLEMENT

17. This matter may be resolved by surrender of your license or an agreement to accept a lesser sanction. The procedural rules governing the Board's settlement process are found at 282 IAC 11.4(6). If you are interested in pursuing settlement of this matter, please contact the Assistant Attorney General identified in Section A, above.

Dated this 28th day of January 28, 2015.



Duane T. Magee, Executive Director
Iowa Board of Educational Examiners

Copies to:

Regan Stone (first-class mail and restricted certified mail)
RESPONDENT

Brian Gruhn (electronic mail)
ATTORNEY FOR RESPONDENT

Renner K. Walker (electronic mail)
ATTORNEY FOR STATE